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III.—THE MADRAS MAINTENANCE OF PUBLIC ORDER BILL, 1947
(AS PASSED BY THE ASSEMBLY)—*cont*

MR. PRESIDENT :—“ How many hon. Members wish to 5 p.m. speak on the Bill, may I know ? ”

K. T. M. Ahmed Ibrahim Sahib Bahadur rose in his seat.

MR. PRESIDENT :—“ Are you the only Member ? ”

SRI M. D. T. KUMARASWAMI MUDALIYAR :—“ Myself and Dr. Tajuddin (who will come now) will speak.”

MR. PRESIDENT :—“ Ten minutes will be given to each Member.”

SRI M. D. T. KUMARASWAMI MUDALIYAR :—“ Hon. President, Sir, though it may not be necessary to criticize in detail the dangers of this hasty and harmful legislation, after the observations made by the hon. Members on this side, I would like to record my emphatic protest against a legislation of this nature.

“ Even the Government from the fetters of which we are trying to free ourselves never dared to introduce such legislation which might have helped them to hold their grip longer. It surpasses one's understanding that at a time when the whole country is yearning for and is marching towards freedom, the present ministry should have thought of forging new fetters and crush the movement for freedom and independence.

“ The present legislation is suicidal and will recoil on the framers themselves when they cease to hold office and when another party comes to power.

“ The party now in power has cried hoarse against the ordinances introduced at the time of the global war when there was threat of invasion of our country and have condemned the same in all possible ways. The very law that was abhorred and condemned by the present party is now hugged and sought to be forced to be used against the innocent people who had been misled by men who till the other day were the prime movers of the party in power. A legislation of this kind will confer uncontrollable powers on irresponsible people of lower ranks and will be used as an engine of oppression for suppressing rival parties however noble and laudable their object might be. Such legislation will be used against the legitimate criticism and will drive the rivals to resort to undesirable ways which would finally lead to chaos and confusion.

“ The present Government is taking a very serious responsibility in forcing a dangerous legislation relying on the mere strength of numbers without any regard to the future growth of the country and the glorious independence for which genuine Indians are working in their own humble way.

“ Once again I would request the Government to think once, twice, and hundred times before venturing on a legislation which cuts at the very root of independence and freedom of the individual and the nation.

“ Mr. President, Sir, I thank you for the opportunity you have given me to speak on this Bill.”

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SRI P. R. K. SARMA :—“ Sir, I shall be failing in my duty if I do not protest most strongly against the introduction of a legislation of this character. I am here, Sir, representing the cause of Labour. It is well-known that labour, which suffered terribly during the war on account of the various restrictions imposed and also on account of economic difficulties, is now slowly trying to get into its own. During the war, if there was any section of the community which suffered most it was labour. It is not only in our country but everywhere that all kinds of restrictions were imposed on labour. Strikes were prevented, while employers enjoyed freedom to deal with the labourers as they liked. Impossible restrictions were imposed on even ordinary trade union activities. I can quote any number of instances, but I do not propose to take much of the time of the House by quoting instances. There was a strike for one day on account of some sudden provocation. The workers struck. The next day they went back to work. The Secretary and Assistant Secretary were caught hold of after they had returned to work and they were convicted to undergo one year's rigorous imprisonment. The employer has practically crushed the trade union out of existence, and not even the present Congress Ministry, has been able to save that most constitutional trade union of most moderate minded workers—not Communists! Sir, in this country there has been no legislation for labour. Despite the presence of popular parties in the Central Legislature labour is to-day devoid of any protective legislation.”

MR. PRESIDENT :—“ May I ask the hon. Member how it is relevant to this Bill? May I request him to show how it affects labour? ”

SRI P. R. K. SARMA :—“ I am just trying to point out. . . ”

MR. PRESIDENT :—“ You please go to the point.”

SRI P. R. K. SARMA :—“ I am just trying to show how the legitimate activities of the labourers to better their economic condition and to secure their ordinary elementary rights will be considerably handicapped by the enactment of a legislation of this kind. It might be, Sir, that it is intended to check the activities of the Communist party. Even existing law has been exploited by police officers here and there to curb ordinary trade union activities and to suppress the most constitutional and moderate trade unions. Labour, Sir, is devoid of any protective legislation, and now faced by serious economic crisis workers have to strengthen their unions and even go on strike with a view to secure even a minimum living wage. I wish to point out, Sir, that even the Government of Madras is paying such a low wage as three annas a day for women workers at Mettur in the Public Works Department. I met the officer of the department there. But I was not able to convince him that three annas is not a sufficient wage. Workers have no legislation to assure them of a minimum living wage and to protect their elementary trade union rights. In the absence of such protective legislation workers have no other go

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except to organize themselves under their trade unions, and if necessary, go on strike. The enactment of a legislation of this kind will place immense powers in the hands of unscrupulous police officers. The other day there was a small strike in the Sayani Glass Works. An adjudication was ordered: the strike was called off; I took the men and women workers to the gates of the factory. But they were not taken back to work as required by Law. The adjudication has been in favour of the workers. To-day these men and women workers are starving in the streets of Madras and invading the residence of the Hon. Minister for Labour, and yet they have not secured redress. When a worker probably provoked by an unreasonable action of the employer goes on strike, he is convicted for one year's rigorous imprisonment. When he comes out of prison he is unable to secure an employment. Employers in this country, even big employers violate law with impunity and go scot-free. If these shackles and fetters in the present Bill are forged by you even day to day trade union activities of workers will be handicapped. During the war the workers were under restraint. They did not resort to strike; they did not think in terms of strike at all. The workers know that strikes hit them more than the employers. I was referring to a small strike. Some policemen made a report during the strike against some of the strikers. The poor women workers were not taken back; so they went and lived with their brothers and sisters. Some policemen dragged a woman from her brother's house to the police station and kept her in the cell and when I went to inquire in the Police station I was unable to find out what exactly was the charge against her. They resorted to peaceful picketing; and yet they were beaten by the Police. Some of them were injured; I took them to the hospital for treatment. I have made representations to the Government and am waiting to see what action Government will take. Even now I have made representations to the Government. My point is there is no necessity for a legislation of this kind. The existing law of the land is sufficient to put down misdeeds, and a new fetter of this kind is absolutely unnecessary. I wish to tell Mr. Madhava Menon who was painting in lurid colours the atrocities committed by Communists in Malabar, that I have had the privilege of working shoulder to shoulder as a humble trade union worker with the Communists for about twenty years. (Sri K. Madhava Menon: 'So have I!') The Minister for Labour knows that he has worked in the Trade Union movement. We fought serious battles with the Communists. We have survived in the movement in spite of the Communists; we have received their shocks; and even to-day we are striving to see that legitimate and bona fide trade union movement is protected not only from the Government and the employers but also from the Communists, and nobody exploits trade unions for party ends. Sir, I feel ordinary law of the land is sufficient to deal with any situation. One hon. Member talked about some people coming down from the hills and committing all sorts of atrocities in Malabar. I have also travelled, though not recently, all over Malabar, and I hope to go to Malabar at the end of this month; and perhaps Mr. Madhava Menon will be there then. I have gone through the

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whole presidency; I have gone through the whole Andhra country. I am connected with trade unions in Andhra area. I am connected with a large number of trade unions in the City and all over the province. I have received probably some of the biggest attacks from the Communists. I repeat, Sir, honest trade union movement will be considerably obstructed by enactment of a legislation of this kind. There is absolutely no necessity for it now. The existing common law of the land is sufficient to meet any situation. Any efficient Government—I do not say this Government is not efficient—any efficient Government should be able to protect liberty of person and property with the existing law. The trade union movement, which is striving to protect the common rights of the workers will stand by the Government and see that not only the Communists, but all disrupters, are kept out of it. I protest against the introduction of this legislation. I do not propose to go into the several clauses now. I only wish to say, Labour in this province condemns this Bill. They feel that it will interfere with their legitimate rights."

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—
" Mr. President, Sir, I rise to oppose this Bill. While doing so, I am conscious that the Bill has been brought forward in this House in such a manner and in such circumstances that it will not be possible for us in this House to alter a comma of the provisions of this Bill. In similar circumstances on a former occasion we appealed to the Prime Minister and the Cabinet to give us opportunities to make our effective suggestions in regard to any Bill, and we thought that that would be the last occasion for such a thing to take place. Unfortunately again this Bill is brought forward before this House in such a manner as not to enable us to offer any suggestions. Now, Sir, it would be whipping a dead horse to make suggestions or to move amendments in these circumstances. The other House is closed and this Bill is to be rushed through so that it may get the assent of His Excellency the Governor and also His Excellency the Governor-General before the 13th of this month."

MR. PRESIDENT :—" Anyway the suggestions made by the hon. Members will have due weight with the Government in the working of the Bill. Therefore you may make your suggestions."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" I was about to say that myself, Sir. Anyhow, we consider it our duty to give expression to our views so that in the enforcement of this measure the rigours of the provisions may be tempered. I am glad, Sir, that the President has anticipated my suggestion regarding this matter. Now, Sir, when we oppose . . ."

MR. PRESIDENT :—" At the same time, I would request the hon. Member to take not more than 15 minutes."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" I think I will be able to finish before that time, Sir."

" When we oppose this Bill, Sir, let it not be understood that we ally ourselves with the Communists or in anyway approve of the activities of the Communists. Sir, the other day when the

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Hon. the Premier explained to this House the necessity for the promulgation of the Ordinance he emphasized the activities of the Communists and he justified the promulgation of the Ordinance by explaining the disruptive activities of the Communists. Therefore I wish to point out that while we are opposing the provisions of this Bill, it should not be understood that we in anyway approve of the activities of the Communists. We are one with the Government, I must assert, in opposing the activities of the Communists and this House knows that the Muslim League Party has assured the Hon. the Premier and the Cabinet, of its co-operation and help in all matters concerning the preservation of peace and the maintenance of law and order in this Province and also in connexion with the solution of all problems relating to food. The Hon. the Premier will concede that our party has always been co-operating with him in the maintenance of law, peace and order in this Province. In this connexion I must also emphasize, Sir, that the Hon. the Premier has been very earnest in his efforts to maintain peace and order in this Province and as he has pointed out in his budget speech it is a matter for satisfaction and pride that peace has been maintained in this Province unlike in other Provinces.

“ I would however point out, Sir, that there is no occasion or justification for these sweeping and all comprehensive provisions of this Bill. This Bill is a direct infringement and curtailment of the civil liberties of the people. It is most unfortunate and surprising that those who have been fighting all their lives for the freedom of the people and for the restoration of the liberties of the people should have thought it fit to bring forward such a measure. The Hon. the Premier himself has stated while explaining the necessity for the introduction of the Ordinance the other day that it was very unfortunate that ‘ this Government should have been compelled by this Communist section to have recourse to a method which is not after their heart and which they never intended to apply.’ . . . ‘ We feel so sorry that we with our own hands should have drafted this Ordinance and placed it before the Assembly and the Council.’ Well, Sir, having said so much, I thought the Hon. the Premier would not have found it necessary to bring forward this measure because the ordinary law of the land is quite sufficient to meet the situation created by the activities of the Communists. He himself has confessed in his statement that to a certain extent it was possible to deal with these activities with the ordinary law of the land. He said, Sir, ‘ . . . it has been possible to a certain extent, to deal with these activities with the existing machinery of the law . . . ’ Well, Sir, if the Government had taken measures to nip the activities in the bud, there would not have been any necessity for trying to arm themselves with such sweeping and all comprehensive provisions. Well, Sir, if you look into the Bill, you will find that almost all civil liberties which a man should have are being sought to be taken away. First of all a man can be detained without his being given an opportunity to prove his innocence before a Court of Law. True, the Bill provides for the constitution of an Advisory Council whenever

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necessary. Well, Sir, its constitution is, I would say, an eyewash. All the records need not be placed before this Advisory Council. Sir, clause 3 (4) of the Bill reads as follows :—

‘The Advisory Council shall, after considering the materials placed before it and, if necessary, after calling for such further information from the Provincial Government or from the person concerned, . . .’

This shows that the Government is not bound to place before the Advisory Council all the materials. It may even tell the Advisory Council that the disclosure of certain facts would be against public interests.”

THE HON. SRI T. PRAKASAM :—“ A wrong interpretation.”

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ Then, again any finding by the Advisory Council is not binding on the Government. The Advisory Council may with the limited material before it come to a certain conclusion in favour of the person concerned. Still the Government may not be satisfied with the finding of the Advisory Council. Therefore it is that I say, Sir, that the constitution of the Advisory Council is a mere eyewash. If a provision had been made for the constitution of a judicial tribunal whose findings would be binding on the Government it would have been something. But in the other House when such an attempt was made by the members of my party the Hon. the Premier was not prepared to accept those amendments.

“ Again, Sir, there are the freedom of movement, the freedom of association and the freedom of the press. There are provisions in the Bill for curtailing all these freedoms. When the Ordinance was being discussed in a meeting of the Congress Party, it was stated that strong criticisms were levelled against the provisions of the Ordinance and that the Hon. the Premier assured them that while bringing forward this Bill he would remove the obnoxious provisions of the Ordinance. I have been trying my best, Sir, to find out what obnoxious provisions of the Ordinance have been removed from this Bill. I find, Sir, that far from any obnoxious provisions being removed, there are some more stringent provisions. For example, we do not find in the Ordinance, the following clauses of the Bill, viz., clauses 2 (e), (f), (i) and sub-clause (2) of clause 2 and the provision regarding search, namely, clause 12 and Explanation 3 to clause 8 (3). We were told after the Ordinance was discussed in the Congress Party that its obnoxious provisions would be removed, but I find more obnoxious provisions have been added and they are more stringent. But still we find that the members belonging to the Congress Party have been welcoming this Bill and they have not said a word against the provisions of the Bill. Even that assurance given by the Hon. the Premier to them—if I can believe what I read in the press had not been . . .”

MR. PRESIDENT :—“ Obviously they are satisfied. There is nothing obnoxious so far as they are concerned.”

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ Sir, that assurance has not been implemented. The Hon. the Premier

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said that the necessity for the promulgation of the Ordinance was the prevalence of a spirit of lawlessness spread by the Communists in some districts. But, Sir, what is the cause of the spirit of lawlessness and the revolutionary activities of the Communists. If the Hon. the Premier had taken care to check the spirit of lawlessness when it first showed itself in the Province, then these Communists would not have come forward and indulged in these activities.

“ Sir, I would recall to the mind of the Hon. the Premier what took place in this Province so far as the Muslims were concerned shortly after the last general election. As a result of political prejudice, caused by the last general election, Muslims in various parts of the Province, especially in the Tanjore district, were harassed by certain sections of the Hindus for political reasons. We appealed to the Hon. the Premier to nip it in the bud. Then came the incidents in Madura and Vaniyambadi. Again I appealed to the Hon. the Premier. I do not question the earnestness and sincerity of the Hon. the Premier in this matter, Sir, but because there were probably troubles in his party, he could not put down the spirit of lawlessness with an iron hand. In many places Congressmen went about saying that because there was a Congress Ministry in power they could do whatever they liked with impunity. In certain places they bullied the officials and the latter were afraid of Congressmen and did not come forward to do justice by those who were suffering at the hands of Congressmen.

“ Sir, some of the persons convicted for incidents in August 1942 were released and what did they do? They went about preaching defiance of authority publicly. During the last budget debate I drew the attention of the Hon. the Premier to the speeches made by some of the Congressmen who had been released from jail. I specially appealed to him to send for the shorthand reports of the speeches of these persons and see whether any action could be taken.

“ Again, Sir, the newspapers have been sedulously poisoning the minds of the Hindus against the Muslims. They were trying to use the Noakhali incidents as a lever for this purpose. Gandhiji has said recently, Sir, that the incidents in Bihar paled into insignificance before . . . (Laughter.) I mean, Sir, that Gandhiji before he departed for Bihar has said that the incidents in Noakhali and Tipperah paled into insignificance when compared with the incidents in Bihar. But here, Sir, very responsible and reputable papers began to report that thousands of people suffered in Noakhali owing to the atrocities of the Muslims while the actual figure was very low, only in the category of three figures.”

SRI B. BHIMA RAO :—“ May I ask, Sir, how all this is relevant now? ”

MR. PRESIDENT :—“ We had better forget Noakhali and Bihar for the present.”

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ I myself have always wanted that we should forget other Provinces. That has been my concern. The Hon. the Premier will bear me

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out that times without number we have appealed to him to take action against those who used the Noakhali incidents as a lever for injecting the poison into the minds of Hindus. Though the Hon. the Premier has been requested to take action against these people, he did not take any action. I sent him cutting of editorials from newspapers in the Province and requested him in person to take action against those people and warn them against such poisonous activities and also check those Congressmen who were indulging in such violent activities against Muslims. As I said, probably on account of the trouble in his own party he was not able to do anything."

THE HON. SRI T. PRAKASAM :—" That has nothing to do with this."

MR. PRESIDENT :—" Does not the hon. Member feel that he is only strengthening the hands of the Government by his arguments? "

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" I am stating the facts, Sir. There is no strength needed for their hands. The whole thing has been predetermined. We are only seeking to express our views, but the fate of the Bill has been predetermined. We cannot alter even a comma in it."

MR. PRESIDENT :—" I am only anxious to avoid Hon. Members sitting late day after day if they can co-operate with me."

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" What I am driving at is that the situation created by the activities of the Communists is a situation that has been created by the Government itself. If the Government had taken steps to check the spirit of lawlessness when it first appeared in the Province after the last general elections, that spirit would not have spread at all. But in spite of our entreaties and requests, the Government did not take effective steps to check that spirit with the result that the contagion spread and the Communists began to indulge in greater and more intense activities against the civil liberties of people in the Province."

MR. PRESIDENT :—" It is never too late to mend."

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" Even then there is no necessity for this."

MR. PRESIDENT :—" That is the point which the hon. Member wants to make."

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" That is my point. It is why I say that if the Government had taken early steps to check the spirit of lawlessness which first appeared among Communists, the necessity for a Bill of this kind would not have occurred. Even now, this spirit of lawlessness among Communists can be dealt with effectively by the ordinary law of the land as the Hon. the Premier himself said that it was possible to use the machinery of existing law. The incidents narrated by my hon. Friend Mr. Madhava Menon could very well have been dealt

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with under the ordinary law of the land and it is not necessary for that purpose to deprive the people of their civil liberties in every direction.

"Again, Sir, whatever may be the intentions of the Government after all, these provisions are to be put in force by the subordinate officials. To entrust subordinate officials with such sweeping and comprehensive powers would be gambling with the liberties and lives of human beings. That is why we oppose all the provisions of this Bill. Even now, Sir, we find some discrimination is being made in regard to the enforcing of the Ordinance. Some members of the Tamil Nad Congress Committee and All-India Congress Committee were arrested under the Ordinance, but the other day one member of the Tamil Nad Congress Committee was released."

MR. PRESIDENT :—"Does the hon. Member object to it? I thought he wanted nobody to be arrested!"

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—"I want to point out how the Ordinance is being enforced in practice. Again you find that three members of the Tamil Nad Congress Committee or the All-India Congress Committee have been released. (Sri B. Narayanaswami Nayudu : 'They are Kisan Congress people.') No, they are all members of All-India Congress Committee. That is a pointer to the way in which the Act may be worked. It may be used as a political weapon, if necessary. We do not find any Communists being released. We only find that members of the Tamil Nad Congress Committee whom the local authorities thought fit to arrest have been released. What does it point to? I will leave it to the House to draw the necessary inference. Therefore we say that the provisions of this Bill constitute an engine of oppression which may at any time be used against any political party to its great detriment. It is why I oppose this Bill."

DR. SYED TAJUDDIN SAHIB :—"Mr. President, Sir, I regard this Bill as a double-edged sword. The hon. Friend who spoke a little while back said that this Bill would be suicidal. I would go further and say that it would be not only suicidal, but also homicidal." (Laughter.)

MR. PRESIDENT :—"Which part of it does the hon. Member object to : suicidal or homicidal?"

THE HON. SRI V. V. GIRI—"Fratricidal."

DR. SYED TAJUDDIN SAHIB :—"I will have to wait and see."

"I warn the Hon. Premier and his colleagues about the far-reaching consequences in the shape of a boomerang. The whole thing may recoil on the heads of the Ministers who, perhaps with the best of intentions, are perpetrating a great wrong to the public at large."

DR. V. K. JOHN :—"Does the hon. Member suggest that the Members of Government will be the first victims?" (Laughter.)

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DR. SYED TAJUDDIN SAHIB :—" I do not know, Sir. Laws are not made for any sections of people; they are made for all people. But I am afraid this particular measure is directed against a single section of the population of this province. I do not know what this Government have in view with regard to some other sections of the population. Probably now it is intended against the Communists. Later on it may be used against some other sections of the population. (Interruption.) I do not know. The Hon. Premier and his colleagues know about these things better.

" In the last few days, we were hearing much about the Ordinance. But in the notice put in our hands, I find a milder name, the Madras Maintenance of Public Order Bill. I do not know what difference there is between this name and that. Probably the word ' Ordinance ' has got a scare about it, too strong for this Council or for the other House."

MR. PRESIDENT :—" The difference is that that is an Ordinance, and this is a Bill. This cannot be called an Ordinance."

* DR. SYED TAJUDDIN SAHIB :—" But this has got all the force of an Ordinance. Therefore I say it is a distinction without a difference. Call it an Ordinance or by whatever name you like. If you call a thing rose, it does not become a rose; it smells obnoxiously and would be dangerous in effect.

" I am afraid this measure does not belong to modern times. It is out and out a mediæval measure, and there is no doubt about it. Many of us have read the History of England and there we see the difference between an Ordinance and a statute. Out of royal prerogative, Ordinances are issued; the Parliament can enact only a statute and cannot promulgate an Ordinance. During the reigns of Henry III and Edward I, such measures were very common. At certain periods they were, I may say, almost every day occurrence."

MR. PRESIDENT :—" I am sorry to interrupt. May I request the hon. Member to discuss the principle of the Bill? He may take it that all the members know the historic difference between an Ordinance and a Bill."

* DR. SYED TAJUDDIN SAHIB :—" My object in giving the historical aspect is to impress upon this House that such measures have become obsolete altogether. Even as early as 1389, the measure became very unpopular. (Mr. President : ' Does the hon. Member mean the Ordinance? '). Such repressive measures, call it Ordinance or by whatever name you like. It only wears a mild mask now. Whatever mask this Government are pleased to give, it wears.

" Burke has once said that law has got two and only two foundations : equity and utility. I am afraid there is neither equity nor utility in this. (Interruption.) Utility there is, probably from the point of view of the Congress Party. But from a larger point of view, there is no utility. (Dr. V. K. John :

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'Don't forget they are in this hall.') I *cannot* forget it, Sir. (Laughter.) (Mr. President: 'I am sorry I was not in it.') (Mr. K. O. Anthoni: 'All the better, Sir.') The same great Burke has said that, if laws are very repressive, the laws become enemies of men and men become the enemies of law. I wish this Government take a leaf from the book of Burke and from the experience of great political leaders in other countries.

"With regard to a man's trial, this measure does not give any opportunity to him to present his case. Seneca, a great Grecian Philosopher, in similar circumstances, once said that in deciding a case without allowing the other party to present his case it might be decided justly but it might not be just. It is not just to decide a man's fate in his absence. That is the most cruel section of the Bill. I am not a lawyer. Layman as I am, I can easily understand the cruel nature of some sections. I do not wish to weigh and consider section after section of this Bill, for the reason that I am totally against all the provisions of the Bill. I am convinced that if this Bill emerges out of the Legislatures—it is going to emerge in a few hours' time—it will become a great hydra-headed monster capable of doing untold misery and suffering to many people of this Province. As such, I would be the last man to give any support to this measure. The ordinary provisions of the law are there to deal with. Heavens have not fallen on our heads because this Bill was not there all these days. Some hon. Members of this House pointed out certain instances of lawlessness in certain quarters. I do not want to deny that there are a few plague spots here and there, in two or three or four districts of this vast Province. Why should not this Government take into its head to have a special measure to combat such a situation with regard to those few plague spots? Why should the docile districts of the Province where we have no trouble till now, be subject to such a measure which is pregnant with such dire consequences and possibilities? I do not see any reason why it should be made a general measure for the whole Province. I do not wish to take up the time of the House any longer. I cannot conclude without expressing my deepest disapproval and my strongest protest against this measure as a whole."

* MR. K. O. ANTHONI:—"Mr. President, Sir, I did not intend to take part in the preliminary discussion of this Bill. But having listened to the speeches that have already been made from both sides of the House, I thought that there are one or two points on which I would like to offer a few comments. In common with several other Members I deplore the circumstances under which this Bill has come to this House. Sufficient stress has already been laid and I do not want to detain the House any further dealing with that aspect of the question. As a democrat by instinct, by association, by training and by conviction my heart rebels against this measure which seeks to deprive the individual of his civil liberties . . ."

MR. PRESIDENT:—"Was the hon. Member convicted at any time?" (Laughter.)

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MR. K. O. ANTHONI:—"No, Sir. The other day I read a definition of the word 'politician.' A politician is described as a human machine which goes on wagging its tongue. I have not developed into a politician of that type. I have got a few convictions which I would like to lay before you. As a democrat I am opposed to this measure, to the fundamental principles on which it is based.

"There are one or two other considerations also which deserve our attention. We know that our country is passing through a critical stage. The country is passing through the pangs of a rebirth. Various ideologies, political and social, are struggling for mastery. At this critical juncture in our history, are we going to maintain law and order in this country or are we going to allow chaos and confusion to arise in the country? That is the question that we should address ourselves to.

"This is a time when mass conversions to ideologies are taking place. I have heard a criticism of mass conversion alleged to have been made by Christians. Personally I do not believe in mass conversions. But whatever allegations might have been made against the mass conversions to Christianity, no one has said that these conversions were accompanied by riots. Mass conversions to ideologies, I regret to say, are accompanied by violence. That is an aspect of the question which we have seriously to consider in connexion with this Bill. It seems to me, Sir, that there is something fundamentally wrong with our training for democratic citizenship. I regret to have to remark that throughout the country there is a spirit of indiscipline. Everyone speaks of his rights and not of his responsibilities. Everyone speaks of his liberties and not of those of his neighbours. Civil liberties we all want; we praise them; but no individual is allowed to exercise civil liberties at the cost of his neighbour, at the cost of the community. So, there are certain liberties which we should concede to others while we talk of our own individual civil liberties. Let me also remark that there is a tendency in our country unfortunately to mistake liberty for licence.

6 p.m. "It is in this perspective that I view this measure. That is why I say that it is unfortunate that while some of us can see the necessity for an extraordinary measure to cope with an extraordinary situation, we are not given the privilege of amending this Bill so as to meet the requirements of the present situation. The question resolves itself to this: how to reconcile the maintenance of civil liberty of the individual with the maintenance of law and order in this country? Both are precious, and I think serious consideration should be given to the demands of both these principles in considering this Bill. While, therefore, I could understand the Hon. Premier's anxiety to maintain law and order in the present circumstances of the country, I must also remark that there are certain features of the Bill which, as a democrat, I should certainly not like to see incorporated in this measure.

"But before dealing with them, let me deal with the question that has been raised by several hon. Members in the House,

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namely, whether the ordinary law of the land should not suffice to deal with the situation. Having had firsthand knowledge of what has been happening in certain parts of the country and in some of the Native States in the neighbourhood of our Province, I regret I cannot agree that the ordinary law, in which proof has to be given and witnesses have to be brought in cannot cope with the situation. Situation may arise, which will make it practically impossible to cope with them under the ordinary law. And so I feel that there is necessity for a measure of this kind. Some of the objectionable features that I mentioned have already been referred to by hon. Members of this House, and I shall mention a few categorically.

“ Firstly, Sir, the application of this measure to the whole of this Province does not appear to be correct. Only certain parts of it have been affected and it would have been much better if the provisions of this Act are applied to those parts first and extended later on, as and when necessary to other parts of the Province.

“ Secondly, Sir, I have always been one who felt that if there is one thing in the British Administration that we have to admire, it is the provision for an independent judiciary. We have always been accustomed to the rule of law and not to the rule of the thumb. And so, I should have certainly been glad to see a provision made in this Bill for an ultimate appeal for a judicial review. These Advisory Councils, as my hon. Friend Mr. Ahmed Ibrahim remarked, are only an eyewash. I suppose, that is parliamentary language.”

MR. PRESIDENT:—“ Even an eyewash is necessary for a weeping eye.”

* MR. K. O. ANTHONI:—“ Whatever it be, Sir, these Advisory Councils can never take the place of a judicial review and it is indeed regrettable that no provision has been made for such a judicial review as a last recourse. Whoever be the aggrieved party, if he was given that right, and one of the obnoxious features of this Bill could have been done away with.

“ The third objectionable feature is the gagging of the Press. It is provided for in section 9. Sir, I suppose, that after all, speaking by and large, the Press in this Province has been reasonably tolerant and reasonably liberal-minded. They have offered criticisms and probably some of them have used violent language, but I do not think that we could complain too much about the attitude of the Press towards this Government or any other party. And so, I wish that that provision was not included in the Bill in the form in which it has been done.

“ The only other provision that I would object to, is this. Power has been given to any police officer to do anything with life. It would have been much better if police officers over and above a certain rank, say the Sub-Inspector, were invested with this power. As it is, I feel that the life of the citizens may not be safe in the hands of these petty limbs of law, who we know

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are easily carried away by all sorts of considerations. With my hon. Lady Friend Mrs. Hensman, I hope that this measure will be administered with due circumspection. I sincerely think that the Hon. Premier has not brought in this measure to victimize his political opponents, be they the Muslim Leaguers or Communists or anybody else. It is my hope that he has brought in this extraordinary measure first to cope with an extraordinary situation and no more."

* SRI C. N. MUTHURANGA MUDALIYAR :—" Mr. President, Sir, I rise to support this measure and in that if I err, I err in the good company of my hon. Friend Mr. Madhava Menon. Sir, he has been for the past 25 years the victim of ordinances and Criminal Law Amendment Acts of the imperialist Government, and when he supports such a measure, I have no qualms to support it. The hon. Mr. P. R. K. Sarma, the labour leader, must have found fault with Mr. Madhava Menon for supporting it, but Mr. Madhava Menon's sufferings under the ordinances are much greater than those of our friend Mr. Sarma.

" Sir, I need not argue at length after Mr. Anthoni has spoken. He has plainly said that the ordinary law was not enough to meet the extraordinary situation and that a special law like this is needed. My sincere opinion is that a measure of this kind, though not with all its rigours, ought to have been passed long ago, even in the last session. I was of opinion that the people's Government functioning in this Province has not been prompt in this respect. Sir, mention was made about the breaking of heads, the burning of grains and stocks in the Tanjore district; mention was also made that Kisans have killed people belonging to the mirasdars on the advice of the Communist friends and that similar things have happened in Malabar and in some of the Andhra districts. Of course, some of our friends have said that such things happened only in three or four districts and for that the Government need not have come forward with this measure for the whole of the Province. But I should like to mention, Sir, that our friends who incite the goondas and Kisans may go into the borders of those districts where this law would not be in operation and then incite the people.

" Again, Sir, I may remind this House what happened in the Madras City itself. On the advice of our Communist friends, the labourers came to the Secretariat premises and threw stones at the Premier himself in the Secretariat veranda opposite to this room. Meetings were addressed and on public platforms, some people advised the labourers to drag the Premier by his hair and beat him. Then, when shop windows were broken by throwing stones at them, when passengers in buses and in trams were attacked with stones, what was the position? The police no doubt were going behind this procession of labourers, but they were all silent witnesses to what all was happening, the breaking of shop windows, the attack on tram cars and buses; they did not also take any steps when the labourers came to the Secretariat and threw stones

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K. UPPI SAHIB BAHADUR :—“ May I ask for want of a provision in existing laws, they were not able to take any steps? ”

SRI C. N. MUTHURANGA MUDALIYAR :—“ I am not here to answer the hon. Member, Sir, the Premier will answer him. We saw the police silently watching these stone-throwings; but when some of us asked them why they stood quiet, they said they had no power. I felt even then that such a legislation as this, even though in a modified form, should have been passed. But of course, the Ministers, congressmen as they are, were reluctant to bring in such a measure. That is why they delayed it; at least now when the situation has become more serious, they have brought it forward; and yet we find hon. Members opposing it, just for the sake of opposing the Government; that is their purpose. What is the position as regards this legislation? Members on the opposite side pointed to some objectionable features; but the Ministers have assured us that the objectionable provisions will not be used, and that in course of time, with the gaining of experience, amendments might be brought in. Sir, I have been hearing speeches from the opposite side about freedom and independence, liberty of the subject and all such things. Who fought for freedom and independence in this land? It is the Congressmen, i.e., the people in the Government which is now functioning. They are the real fighters for freedom and independence; they have suffered under the bureaucratic ordinances. And on the analogy of the condemnation of those ordinances of the past by Congressmen, our friends are now condemning this ordinance and this legislation. But they must not forget two points. The ordinance promulgated by the imperialistic Government was against the people of this land to suppress the freedom movement; but the ordinance or this special legislation now before the House is to maintain law and order in the proper manner. Liberty of the subject was spoken of more often than any other term; but what is liberty? our friends mentioned ‘ liberty ’ and ‘ licence. ’ Is it the liberty to cut heads, is it liberty to destroy grains, is it liberty to throw stones at shop windows and at people travelling in buses and trams? ”

MR. K. O. ANTHONI :—“ We are not at cross purposes.”

SRI C. N. MUTHURANGA MUDALIYAR :—“ Is it liberty to throw stones at windows; are not the merchants and the shopkeepers and the tram and bus travellers entitled to the same right of liberty of the subject as against the aberrations of these labourers? Are not the mirasdars of Tanjore to have the right to expect support from Government as against the aberrations of these Kisans and their secret advisers? No doubt, Sir, liberty of the subject is good, but licence is not at all desirable. Liberty, no doubt, for all people there must be, but not for one section of the people who take the law into their own hands and make the others victims to the violence which is being carried on, even when a people's Government is functioning. My opinion, Sir, is that there is no need for this violent agitation. The one remedy that is left to people who are not of the Government is to educate the electorate and defeat this Government in the next elections—not by

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throwing stones, not by taking away the grains when there is not enough grain in the country for our people . . . (interruption from Sri B. Narayanaswami Nayudu)."

MR. PRESIDENT :—" No cross-arguments, please."

SRI C. N. MUTHURANGA MUDALIYAR :—" We really carried on the freedom movement, not by quarrelling amongst ourselves. So, Sir, I strongly support this measure; whatever its defects, whatever its shortcomings, I am willing to support it."

* THE HON. SRI T. PRAKASAM :—" Sir, I must thank the hon. Members who opposed this measure for the very lenient manner in which they have dealt with us. They have no doubt been very vehement, but in their heart of hearts, they knew what the country has been, how people, the general public, the civil population, men and women, have been suffering at the hands of particular sections or parties, whatever you may call them. They all knew that, but when the question of liberty comes, they feel just as we felt. Sir, like the hon. Members of this House who opposed this, we also felt very much before we thought of this step, before we put our hands on this measure; we felt more perhaps than all the hon. Members here who opposed, for the reasons stated by them. We should have been the last people to have made an attempt to introduce a Bill of this nature. We know what it is when a person is deprived of his liberty of person or property. We have gone through the whole mill, not for one year or two years, but for the whole period of 26 years; we know how the blood of the non-violent people were spilt on the ground in their fight for this freedom. They knew everything that is involved in a measure like this. And for us, to come to-day with a Bill of this nature is not a pleasure. I admitted it, and I admit it now, I always feel with the hon. Members for the harshness of some of the provisions made here. But believe me, could they be helped? That is the question. We are not mere legislators in charge of the administration here, passing orders on files in the office, sitting in the Secretariat in Fort St. George, without knowing all that is happening in the country; we have gone through every area that has been affected. What do you think we felt? You are accusing us to-day; the hon. Member Dr. John, a lawyer of his eminence, has thought in the manner he has done. What did we do? Did we keep quiet when this thing was developing in the country; did we sit idle; did we not exhaust all available provisions of the Criminal Law or any other Penal Law, with a view to prevent these activities and these atrocities on the part of these men? Everything has been done. Not merely the Government, Sir, but all those officers, the Police officers and others, have been discharging their duties most scrupulously. Government have looked into all the provisions of law which could be applied against these persons. They did not wish to go recklessly. For some time, we have not been able to notice such things; but the technical difficulties are soon got over. The Police department has been ready to discharge their duties; but they said, 'how can we lay our hands upon these people,' and they were helpless. So, Sir, every available step was taken to control this in a peaceful manner by the

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use of the ordinary law of the land but having failed in all these things, we felt compelled to go before the Legislature; we felt compelled to promulgate the Ordinance and then this Bill had to be followed.

“ Sir, I had described in the past incidents in detail. I do not wish to refer to all those items. Even when I introduced the Ordinance, there was a big debate. Of course, in this House, there are such great men who can deal with any subject that comes before them in a masterly way. I always admired the way in which this thing is done here. We want that the people should know exactly the circumstances under which we had to bring in this Bill. I do not wish to take you back to those incidents again. There is no area which I have not visited in connexion with these matters. There is no place which I had not gone to with a view to know things directly; I had been to places where the Police people could not find anything, and where even the people did not know that the Communists were doing all these things. In Karur, Sir, where there are large handloom weavers' factories with bales of cloth and yarn, these Communists broke into these factories, put petrol upon the door-frames, entered inside and burnt the whole thing in broad daylight when the Collector was there, when the Police Superintendent was there and when the Police force was there. Could you imagine a state of affairs like this? These Communists are no doubt very clever to see that they take advantage of the time at their disposal when the whole Congress was locked up in jail. When the Congress leaders were arrested and put in jail, these Communists came into existence for the first time; they have not been there for years. They were part of the Congress; they were taking part in Congress movements also. But in 1942, they found that it was an opportune moment when the whole Congress was locked up. They remained outside and they had a chance to carry on a war against the Congress. Then what did they do? Having adopted all the methods and all the ways against the Congress, they entered the villages, took hold of those innocent men. It is those innocent men, Sir, that have been marching through Tanjore or in the Ramnad district or in Malabar and creating trouble. These innocent men do not know anything; they were told by the Communists ‘you come along with us; we will take charge of this Government; we will become the rulers and we will distribute lands to you free.’ That is the way in which these innocent persons have been approached. In what numbers they have been marching? Fifteen thousand and sixteen thousand people marched together and they attacked everything that they could lay their hands on, either crops or grains or any other thing. That is the way in which things had gone on and it became absolutely impossible, as it were, even with the Police force. The Police here were certainly fitted to tackle such people in an effective manner but it became difficult even for them. Therefore, Sir, it became an inevitable business for us to bring in this Bill with a heavy heart. With what difficulty, you may imagine just now. The Ordinance was there and the Bill is here. But, could we get at these persons who were doing all this mischief? I entirely agree with you that if conditions had changed

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while the Ordinance was there and before the Bill is brought in, certainly there would not have been this Bill before the House. But the situation was not so. I want to give an instance. In almost all places, most of the important men have gone underground; they cannot be traced until now. The hon. Member Mr. Muthuranga Mudaliyar stated just now how these people were up against the Prime Minister. I say, I am not afraid of these things; I am not also worried and I will not also try to wreak any vengeance upon them. Here, I may point out a statement made by the Communist member of the Assembly before he was arrested. He went over from here to Trichinopoly and issued a statement. The whole thing was reported and reproduced. It stated, that the Prime Minister's hands will be cut off, his head will be cut off and he will be beaten with a shoe on the floor of the House if only he was arrested. I knew that all these are young men who have lost their heads, so, I was not afraid of it. Supposing such a thing happens to-day, we must take it. Are we to run away from this place being terrified by such threats? Is there not duty cast upon us to carry on the administration? In that way, Sir, we were obliged to come here with this measure.

" Sir, some hon. Friends, have been referring to trouble inside the Congress Legislature Party. You might have been following the events. There have been no troubles in the Congress Legislature Party so far as the main subjects are concerned and every measure was first placed before the Legislature Party. There might have been some internal differences which are bound to exist so long as we are human beings. On Prohibition, we were agreed; on the Textile policy also, although there were some differences in the beginning, they did not exist afterwards and the members were obliged to accept it except with regard to the surrender of spindles. Again, on the Zamindari Bill, whatever differences there might have been, the measure was agreed upon finally. In regard to these co-operative societies, these producer-cum-consumer societies, there was difference of opinion and Sir, what is it that happened? We had really undertaken big works. We have been told, 'you have been making enemies all round; in every measure you have introduced you have alienated the sympathies and feelings of the people; they are all going to range themselves against you; where is your Government; how long can you get along?' This agitation was carried on in the manner in which there was no parallel in the history of the whole world in a political affair like this. However much differences there have been in the Congress Legislature Party, we were all agreed. There were forces ranged against us and all people thought, there is difference amongst these people, let us try and take hold of the people and deal with the matter. Elsewhere, the Press attempted to do it and other people attempted also. Everyday you must have heard, how long will this Government last; will it last for one week; will it last for two weeks; will it last for one month and even Sanjivi cannot put life into this. That is the way in which the press indulged here and although we could deal with the press, we we restrained ourselves; let things go on and let us see where

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they are going to and what the effect of all these will be? Then we have got patience enough to see how things will end and how the public will be able to know the truth about the whole matter.

“ The textile policy, Sir, has been condemned here. Great men and hon. Members like Dr. V. K. John, and Mr. Narayanaswami Naidu and other hon. Friends here have condemned it in that manner as if we have been very civilized men under the British Government, as if they are sitting to-day here advocating the legal profession in the High Court earning thousands and thousands of rupees. In opposing this matter, they have imagined that we have been going wrong in the matter. We have not gone wrong, but we have been doing the right thing so far as this matter is concerned, which is such a sacred matter with every one who knows anything about it. It is only ignorance that makes people attack this khadi programme. We are men; we are people living, but we are people not knowing exactly what is going on in one part of this country with regard to this khadder and with regard to the spinning business. Although Punjab is in the north of this country, the distance is so much that we could not ordinarily think of leaving Madras and going to the Punjab or to Delhi so easily within such a short time. By train it will take 2½ days to reach those places; but, Sir, I have become a good traveller in aero-planes recently. I may tell you, by getting into plane here at 7 o'clock in the morning you reach Delhi at 5 o'clock in the evening. Do you know what is going on in the Punjab? You have condemned khadder; you have condemned spinning because we have condemned mills because for the last 26 years we have been attempting to carry on this khadder and spinning work. The All-India Spinners' Association was started more than 25 years ago and spinning and weaving will be carried on. With what effect? Because all these great men who are luminaries and most civilized men have been carrying on with the mill business.”

SRI B. NARAYANASWAMI NAYUDU :—“ We have the right to condemn khadi; the Hon. the Prime Minister is saying as if we are not civilized men.”

THE HON. SRI T. PRAKASAM :—“ I do not dispute your right.”

MR. K. O. ANTHONI :—“ On a point of information, Sir. Are we on khadi and khadder policy now, Sir.”

* THE HON. SRI T. PRAKASAM :—“ Every member has got the right to condemn and we have got the right to point out the error also. Sir, so far as this Bill is concerned, as I pointed out to you, under extraordinary circumstances we were obliged to introduce this Bill. As I stated to you, without referring to all other incidents which have been taking place during the last ten months—not one month or two months and having regard to all that, we were obliged to introduce this Bill.

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"I thank once again all hon. Members. I did not intend to say anything against any of the hon. Members about their rights. Of course, hon. Members do exercise and they have been exercising those rights. I must tell them this, with regard to the so-called differences in the Congress party itself, this Congress party knows its work; differences there would be sometimes; no doubt the differences this time have taken a wrong turn and a wrong shape, but I was telling you, Sir, on all the main points we have been quite agreed. Even though the question was put here, how long this Ministry will be in office; whom are you going to look to, I say you can look to a Government on this side, and whether these human bodies are here or not, the Congress policy will be the Congress policy; whether we are here or not and others come into our places or not, the Congress policy will be carried out and you need not be in the least disturbed that the Congress policy is split up—there is no such thing like that. I, for my part, have been sitting here and working all these 26 years, not with a view to become the Prime Minister but to sit on the floor of this House and carry on the administration as the servant of the people who sent us here. We should not call ourselves kings or rulers merely because we are called Ministers. 'Minister' means the servant of the people and every one of the Ministers is a servant of the people and they have to serve the people and if they fail in their duty, they have to be turned out; we must go out. If on account of any difference amongst ourselves also, there should be difficulties and we must have the sense, good sense to adjust matters ourselves and carry on and allow the country's administration to be carried on without introducing any differences. Therefore, Sir, none of you need be worried."

SRI B. NARAYANASWAMI NAYUDU:—"We are not worried."

* THE HON. SRI T. PRAKASAM:—"No one need be worried about that matter. It is a simple matter."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR:—"We are worried about the reaction that will be created."

* THE HON. SRI T. PRAKASAM:—"Not only you, but the whole world will be worried about the re-action on the part of my hon. Friends. I can understand that. All the logic and all the reasons he has given are sufficient to prove that this Bill is an absolute necessity. He referred to Vaniyambadi; he referred to other troubles; he referred to occasions on which he and we on this side had to go immediately and take every care to see that nothing untoward has happened. It is Providence that helped and it is not merely leadership that helped us. Take it from me, Sir, I was wondering how people became so very conscious of the whole situation and although such happenings had taken place in Vaniyambadi and in other places with loss of property, there was not a single death caused anywhere. What would have happened if anything had gone wrong or misdirected during that period? If anything had gone wrong in Malabar what would have not happened? My hon. Friend Mr. Anthoni is talking about the

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gagging of the press. What is the press that is intended to be gagged? We have allowed it to do whatever it liked. With regard to the special press of the Communists, one paper was published in Calicut in Malayalam, one in Tamil in Madras and one paper in Telugu in Bezwada. All these things were linked together. What situation had been created? We did not go against them in a reckless manner. We gave them liberty. What did they write? One paper in Calicut wrote, 'Desabimani' wrote an article comparing the old Moplah rebellion. Events had been quoted. Everything was similar to the Moplah rebellion of 1921. Only the people should be ready to take it up and follow it. Because the Moplahs were good and their leaders were good things did not go wrong. Of course you do not see anything untoward. It is not a quiet Province. Although the percentage of Muslims is very small, there were certain areas where anything might have happened. I know it is stated never mind about all these press but the other writings were coming up from the North to these parts and extracts were taken from these papers and brought to us. Therefore the situation worsened. Ordinary measures were not sufficient. This measure has been introduced and the Ordinance has been promulgated to save the country from the serious situation that has developed here. Now, Sir, my hon. Friend described the advisory council as an eye-wash. When we brought an Ordinance we promised to bring in a measure that would be helpful to the persons who would be detained or dealt with under it. We have provided this advisory council because we know something of what other countries had done. It is according to the English constitution, English history and English precedent. I am one of those who had trained myself under them in the past. When we looked into the English Ordinances we came across this advisory council and the advisory council became the subject-matter of a discussion in the House of Lords at one time. In dealing with an Ordinance the advisory council is the best safeguard. That is what those judges said. Of course this is only an advisory council. When this is provided for nobody need think this is a court of law and regular trial by judges hearing lawyers. These Advisory Councils consist of three persons in England. All lawyers know what are called the trial by jury and trial by ordinary law. Trial by jury is not by lawyers or by judges. It is by ordinary common men. Twelve men will sit. As a matter of fact they would take the whole thing into account and they will decide and when they decide there is no appeal provided for against their verdicts. Here in this council, that is the advisory council, it consists of three men and that is the best safeguard and they will have placed before them every available matter and nothing will be withheld from them. There may be some items which may not be disclosed to the persons concerned but they will not be withheld from the advisory councils because they are the judges who will go into the matter and deal with the matter."

DR. V. K. JOHN :—" Why distrust the courts?"

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* THE HON. SRI T. PRAKASAM :—“ I did not expect Dr. John to put that question after hearing me for such a long time. It is because there is a special emergency and this is a special occasion. If everything were to go to the law courts where lawyers and pleaders come and argue, cases filed months and months back are still pending undisposed of. While they are pending this wretched thing was continued. There was no stop. Why don't you put them before a Court of law? Because the courts of law have become ineffective. They were not of any use on occasions like this. Lawyers will be engaged and arguments will be going on without an end. That is why this distrust of courts.”

MR. PRESIDENT :—“ The question is—

‘ that the Bill to provide for preventive detention, imposition of collective fines, control of meetings and processions, control of essential services and certain other purposes, (The Madras Maintenance of Public Order Bill, 1947) L.A. Bill No. 8 of 1947 as passed by the Assembly be taken into consideration ’.”

The motion was put and declared carried.

On a poll being demanded the House divided thus :

Ayes.

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| 1. Sri N. Ranga Reddi. | 12. Sri C. Perumalswami |
| 2. „ S. Jayaram Reddiar. | Reddiyar. |
| 3. „ C. Veerabhadra Rao. | 13. „ C. N. Muthuranga |
| 4. „ M. Narayana Menon. | Mudaliyar. |
| 5. „ K. Manathunaimatha | 14. „ K. Natarajan. |
| Desigar. | 15. „ S. A. S. Rm. Ramanathan |
| 6. „ O. P. Ramaswami | Chettiyar. |
| Reddiyar. | 16. „ L. Subbarama Reddi. |
| 7. „ V. Nagappa Chettiyar. | 17. „ N. Sankara Reddi. |
| 8. Dr. T. S. S. Rajan. | 18. „ B. Bheema Rao. |
| 9. Sri N. Ramabhadra Raju. | 19. „ M. Narayana Rao. |
| 10. „ P. R. K. Sarma. | 20. „ K. Madhava Menon. |
| 11. „ T. Purushotham. | 21. „ P. Veerabhadraswami. |
| | 22. „ B. Veeraswami. |

Nose.

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|---------------------------------|-----------------------------|
| 1. Sri D. Krishnamurthy. | 7. Dr. Syed Tajuddin Sahib. |
| 2. Dr. V. K. John. | 8. K. T. M. Ahmed Ibrahim |
| 3. Sri R. Suryanarayana Rao. | Sahib Bahadur. |
| 4. Mrs. M. Hensman. | 9. K. Uppi Sahib Bahadur. |
| 5. Sri B. Narayanaswami Nayudu. | |
| 6. „ M. D. T. Kumaraswami | |
| Mudaliyar. | |

Neutral.

Dr. Sir A. Lakshmanaswami Mudaliyar.

Ayes 22; Noes 9; Neutral 1.

MR. PRESIDENT :—“ The sound of voices against does not warrant the result; the motion is carried and the Bill is taken into consideration at once.”

SRI R. SURYANARAYANA RAO :—“ Are we taking up the Bill, Sir? We have been sitting continuously from eleven this morning.”

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MR. PRESIDENT :—" We will sit till 8 o'clock."

SRI R. SURYANARAYANA RAO :—" But then, Sir, we have to be again here to-morrow morning."

MR. PRESIDENT :—" No doubt you have to come to-morrow. Would you not like to sit till 8 o'clock and finish if possible instead of sitting for it to-morrow? Personally, I would like to sit till 8 o'clock or a little longer, finish the matter and go home once for all."

SRI K. MADHAVA MENON :—" Day after to-morrow being Sunday, we may sit to-day at least till 8 o'clock."

MR. PRESIDENT :—" At least if we go through a major portion of the Bill to-day, we may not have to sit long to-morrow."

DR. V. K. JOHN :—" Our amendments will only take a few minutes each; in so far as we have spoken at length in the introduction stage, we may be able to finish it."

MR. PRESIDENT :—" The Government really want some time. It is only to-morrow evening we can meet to consider this matter. If we finish it to-day, they will have enough time to take further steps of sending copies to the Governor and Viceroy."

THE HON. SRI K. BHASHYAM :—" It must be passed in time for the post to-morrow."

DR. V. K. JOHN :—" We can sit for another fifteen minutes or a little longer and we might be able to finish the amendments."

MR. PRESIDENT :—" That is what I am suggesting."

SRI B. NARAYANASWAMI NAYUDU :—" Mr. President, I rise to move my amendment to sub-clause (4) of clause 1, which stands in my name."

MR. PRESIDENT :—" I suggest to the hon. Member to move his amendment to clause 2; clause 1 will be taken last."

Clause 2—Sub-clause (1).

* SRI B. NARAYANASWAMI NAYUDU :—" Mr. President, in clause 2 (1) (a) after the word 'detained' the following shall be added :—

'only after the Provincial Government declares a state of emergency in any specified area and the person ordered to be detained belongs to that area or has been visiting that area for one month continuously prior to the notification.'

Whatever may be said by the Hon. Minister, I have enough conviction in me to say that it is not correct and must, therefore, be resisted. If it is said that it is to be done in a hurry, I submit that we are not taking days on days over it. Sir, I have already pointed out that this clause deals with detention. The thing is that you have remedies under the ordinary law of the land, that is section

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144 of the Criminal Procedure Code and under it an ordinary Divisional Magistrate can say that a person cannot enter a field and other such things can be proclaimed. The real question is that the man is sought to be detained. I shall just refer to the Magna Carta or the Great Charter. It says 'No free man shall be taken or imprisoned or detained or outlawed or exiled or in any way destroyed (not absolutely) . . . unless by the lawful judgment of his peers or by the law of the land'. You cannot deny an elementary right to a subject of his being judged by his peers or of being condemned according to the law of the land by his own countrymen which is what trial by jury means. You are now trying to take away that liberty. Take the last charter, I mean the Atlantic Charter, it secures to the people freedom from fear among other freedoms. It is not persecution or prosecution. What is wanted is that the subject must not have any fear that anything wrong will be done to him. The ordinary citizen must not fear that he will be detained or sent to jail unless he is condemned and sentenced by his own people and by the law. Of course, there are exceptions; during times of emergency, it has been abrogated and in fact during the war of 1914-1918 it was abrogated, under the Defence of the Realm Acts. Conditions 7 p.m. there are different. Section 18-B of the Defence Regulations shows how utterly helpless a victim of 18-B is to secure redress of his grievances or protection anywhere. If a question is asked about it in Parliament, the Home Secretary has only to say it would be contrary to the national interests to state why he has been detained."

Mr. PRESIDENT:—"You are reading clause 2 (1) (a)?"

* SRI B. NARAYANASWAMI NAYUDU:—"I have given notice of an amendment to clause 2 (1) (a), and I am giving the reasons for that amendment. An extraordinary power is being taken to apply this Bill to the whole Presidency. Sir, I am only seeking to accommodate the Treasury Benches. But I ask them why do you want to put the whole Presidency in fear. I do not mind if you say that you are going to confine it to a particular place.

"Mr. Muthuranga Mudaliyar says he wants power. What is it you want? Is it the power to put people in jail without trial? Who is to say that a particular person is to be detained? The whole question is confusing. Therefore, I submit that it is very much from fear, people will suffer. It is not that you will put us all in jail. If a question is put in Parliament about production of documents, the Home Secretary will say that it is contrary to the national interests to produce documents. But what is the safety of the Realm here?"

Mr. PRESIDENT:—"Your amendment seeks to restrict it to specified areas."

* SRI B. NARAYANASWAMI NAYUDU:—"Yes, Sir. That is why I ask why put the whole Presidency in fear. Why not notify that a state of emergency exists in a certain area—say

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Tanjore district—and then exercise that power. That will be a warning to the people to desist from their activities. I submit that freedom from fear might not be hanging over the whole Presidency. It may be confined to certain areas.

“ Another Lord said : ‘ it is the most arrogant assumption of powers that has been known or heard in this country. Nothing like it has happened since Magna Carta, since the time of Charles I, since the Grand Remonstrance, since the Bill of Rights. Nothing like it has ever been known.’ I ask you whether you are not surrendering your liberties. No doubt you belong to the party in power. Still, is it right that you should surrender all your liberties into the hands of a single man? I am asking what is the safety of the Realm now involved? (Mr. Muthuranga Mudaliar : ‘ We want power to fight against “ goondas ”. To-day you say a particular person is a goonda. To-morrow you will say I am a goonda. Who is to determine all this? ’ (Laughter).

MR. PRESIDENT :—“ May I bring to your attention that you are dealing with the principle? ”

* SRI B. NARAYANASWAMI NAYUDU :—“ I am saying that the fear should be confined to a portion of the Province. As I said already, this is to be adopted only with regard to hostile persons in a country. What is said in the budget speech, Sir? The budget has been presented to us, and what is it that is said there. I may perhaps quote from the Prime Minister's speech :

‘ I may also perhaps mention, with some feeling of satisfaction and pride, that this Province has been free from serious communal troubles of the kind that have occurred in Bengal and Bihar. It is true that some misguided sections of the public have indulged in anti-social activities here, but we hope that these will soon come to an end.’

“ My submission is, in the face of such a statement in the budget, what is the extraordinary reason for putting the whole Presidency in fear. You are so sure of your khadi scheme, but I ask, are you not so sure that this power will not be used against political parties? Will not this power be used to suppress political opponents? The whole bother is there. This much must be done, Sir. If you want to take away the liberty of the people, confine it to certain areas. Sir, this is No. 1 tyranny of the National Government. This is against the cardinal principles of the Atlantic Charter. What happened after the French Revolution, Sir? The people beheaded their own leaders. You are plunging the country into that state now. Therefore, I submit you should be careful about this power. It is good to have the power of a giant, but it is monstrous to use it as a giant.”

* DR. V. K. JOHN :—“ Sir, in seconding this amendment I wish to say a few words. We have had an opportunity of explaining our views to the Government. We do not attribute any bad motives to the Government. I am prepared to support every amendment of his and also other amendments, as they are all good. May I know from the Hon. Premier whether he will go through the several amendments given notice of and see if there is any good

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amendment acceptable to him he will himself bring an amendment as soon as he can. Then probably I may suggest to my friend to move them without making any speeches. As it is, we know what the result of our amendments will be. I appeal to the Premier and suggest to him to give us an assurance that he will carefully go through these amendments and see if anything is acceptable. Then without taking much time the Bill can be gone through."

MR. PRESIDENT :—" If the hon. Member's appeal is going to be responded, I have no objection to ask the Premier to give that assurance."

* THE HON. SRI T. PRAKASAM :—" Whatever experience we gain in course of enforcement of this measure, certainly it will be taken into consideration and necessary steps will be taken to see if there is anything real in it."

* SRI R. SURYANARAYANA RAO :—" In a matter like the advisory council most of us have suggested a judicial tribunal should be constituted. If those words are not to be accepted by the Government it is better we go through the Bill in detail whether we succeed or not."

MR. PRESIDENT :—" The question is that section 2 (1) be amended. The amendment is in the hands of hon. Members. So I shall put the amendment to the vote of the House."

The amendment was put and lost.

* SRI R. SURYANARAYANA RAO :—" Sir, I am afraid I cannot follow the kind advice offered by Dr. John. Still I assure him I shall not take up the time of the House unnecessarily. I shall club my amendments and move them. I move—

' Clause 2 (1) (d) shall be omitted;

' Clause 2 (1) (e) shall be omitted.'

Sir, I shall now deal with these two amendments together. Only the other day the Hon. Minister for Law introduced a Bill repealing the Criminal Tribes Act. The two provisions in the Bill are the provisions enforced against criminals who have to report themselves at police stations at a particular hour. Now, I ask, are these people to be treated as criminals? I only appeal to him. He knows well the rigorous of the provisions of the Criminal Tribes Act. My provision is simply to treat those people, however misguided they might be from his point of view, as gentlemen and not as criminals. That is my object in moving these amendments.

" Then, I shall move my amendment to sub-clause (1) (g) which runs thus :—

' In sub-clause (1) (g) of clause 2 the following words shall be omitted :—

" in respect of his employment or business, in respect of his association or communication with other persons and "

Sir, even in regard to his business Government propose to restrict."

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* K. UPPI SAHIB BAHADUR :—" Sir, are we not to take each amendment separately? Is it your ruling that we are to move all the amendments in one clause together? "

MR. PRESIDENT :—" I am quite conscious of your technical objection ; but it will result in your sitting for longer hours. Let me not be misunderstood. I am quite prepared to take each amendment one after the other. I am only trying to minimize your labour."

K. UPPI SAHIB BAHADUR :—" As one who belongs to the Opposition, I have to safeguard our rights."

MR. PRESIDENT :—" I have no objection ; I will put one amendment after the other to the vote of the House."

K. UPPI SAHIB BAHADUR :—" Otherwise we will have to give up our rights."

MR. PRESIDENT :—" All the amendments moved by Sri Suryanarayana Rao are under one clause. He will now resume his speech."

* SRI R. SURYANARAYANA RAO :—" I will speak on my amendment with regard to sub-clause (1) (g). Sir, it is too much to restrict the liberty of a person preventing him from eking out his livelihood. If he engages himself in dangerous business or employment, dangerous from the point of view of Government, there is always provision to deal with that in the existing ordinary law. I think, Sir, such restrictions are unnecessary and galling. You increase bitterness. The object of any legislation of this kind is not to be vindictive by imposing these restrictions, but to make it reformative. Instead, by making the life of a man miserable at every stage you make life for him impossible. It is not the intention, I know of the Premier to be vindictive. When that is so, why have this galling restriction? Why do you simply copy these rules which are meant for enemies and use them against people, who are your own kith and kin? Such a law was intended for an emergent situation, and such an emergent situation does not exist in this country to-day. Otherwise we would not have been sitting in this House, in this hall, at this hour. If there were air raids, we would not have been here. So I ask, why make the life of a man who may be holding certain views with which we may not agree bitter and treat him as an enemy? I think these galling restrictions are unnecessary, and if they persist I declare they smack vindictiveness."

K. UPPI SAHIB BAHADUR :—" I want to know whether we vote on each item separately."

MR. PRESIDENT :—" Yes ; that is so."

* K. UPPI SAHIB BAHADUR :—" Sir, I support this amendment. It is rather vindictive. Even at a time of war the British Government treated their enemies with some consideration. They were more kind than even the Congress Government. The British Government, a foreign Government, when in utter danger of being overrun by the Japanese, had the kindness to be considerate

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to those who were of pro-Japanese feeling. They were not so hardhearted as not to allow anything for a man to carry on his business. That was not the intention of that kind of Imperialistic Government to crush an opponent."

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MR. PRESIDENT:—"Does the Government accept the amendment?"

THE HON. SRI T. PRAKASAM:—"No, Sir."

The amendment of Sri R. Suryanarayana Rao that sub-clause (1) (d) of clause 2 shall be omitted was put and lost.

The amendment of Sri R. Suryanarayana Rao that sub-clause (1) (e) of clause 2 shall be omitted was put and lost.

The amendment of Sri R. Suryanarayana Rao that in sub-clause (1) (g) of clause 2, the following words, viz., 'in respect of his employment or business, in respect of his association or communication with other persons, and' shall be omitted was put and lost.

Clause 2—Sub-clause (1) (i).

* SRI R. SURYANARAYANA RAO:—"Mr. President, Sir, I move—

'that for sub-clause (1) (i) of clause 2, the following shall be substituted, namely:—

"Otherwise regulating his conduct in any such particular as may be specified in the order".'

Sir, the amendment that I have the honour to move is taken from the Defence of India Rules. I do not claim any originality for it. In the Ordinance this clause stood as I have suggested but in the Bill they have changed it as it exists in the Bill. I feel, Sir, that the clause as it stood in the Ordinance was quite good. Sir, in the Bill it reads thus:—

'for such incidental and supplementary matters as may be necessary for the purpose of giving effect to any order under this sub-section.'

This is a very tall order, Sir. It is said anything supplementary and anything incidental are tabooed without mentioning what those incidental and supplementary things are; whereas the Defence of India Rules said: 'otherwise regulating his conduct in any such particular manner as may be specified in the order.' Unless these are mentioned how is the advisory council to know or how can the person who is to be detained put up his defence and send such representation to the advisory council as he would like to? Sir, it is a vague thing to say for such incidental and supplementary matters. Everything can be brought under the words 'incidental' and 'supplementary'. It will be quite clear if it is put as 'otherwise regulating his conduct in any such particular as may be specified in the order.' Sir, the clause as it stood in the original Ordinance was really better than this which is evidently purposely introduced in the Bill, not to remove its rigours but to make it more rigorous."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR:—"Less obnoxious! I second it, Sir."

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MR. PRESIDENT:—" I expect a formal acceptance or denial from the Government."

THE HON. SRI T. PRAKASAM :—" I oppose it, Sir."

The amendment was put and lost.

Clause 2—Sub-clause (2).

* SRI B. NARAYANASWAMI NAYUDU :—" Sir, I move—
' that sub-clause (2) of clause 2 shall be omitted.'

" Sir, under this sub-clause the power of internment is not only given to the Government but to any officer or authority including a subordinate officer. I ask the Hon. the Minister for Law to show whether this internment provision can be exercised by a subordinate official. I want the Hon. the Minister for Law to peruse Regulation 18 (b) of the Defence Regulations. Sir, it was at a time when the British Government was at war with Germany and when Normandy was about to be invaded and when they expected the enemies would come down to England did they go in for a provision for internment giving power to the Home Secretary. We know in Germany when Himmler was the Gestapo Chief, he was given the power to delegate his power to subordinates for arresting men and putting them in concentration camps. That has been done in Germany but not in any free country where liberty of the individual exists. Now under the present provisions of the Bill the power of internment can be delegated to Mr. Muthuranga Mudaliyar to be used by him in a deadly manner if he likes. (Sri C. N. Muthuranga Mudaliyar : ' I am not an officer. ') But he may be authorized by any officer. Therefore, Sir, they have no idea of the responsibility of internment. Sir, the Lord Chancellor while defending the Home Secretary in the House of Lords in England says as follows:—

" . . . Here I should say a word about the responsibility of the Home Secretary in these matters. I feel it very much, in view of the fact I have twice held that office. I assure you, My Lords, most solemnly that next to the dreadful responsibility which falls on the Home Secretary of deciding whether a convicted murderer shall be hanged, there is no duty which falls upon him which he regards as so much his personal charge, his deep personal responsibility, as the decision in these internment cases . . .

You have no idea of that liberty. You have been in jails for 25 years and therefore you have become habituated to being in jail. Therefore you do not realize that responsibility. (Laughter.) You have been in jail for 25 years and you now want to put other people in jail. Sir, this is nothing but Himmler and his camp and his ruthless capture, guillotine and mass execution. This is not civilization but savagerization."

* SRI R. SURYANARAYANA RAO :—" Sir, I second the amendment. In doing so, Sir, I may, for the information of this House cite some instances that occurred in 1942. Police officers, evidently authorized under a section like this in the Defence of India Rules, arrested people and when we went to the Chief Secretary and begged him to have them released, he said that he had no power. He got the papers, reviewed them and placed them

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before the Government. That means the Governor, and got the order. That, Sir, must be the procedure. This clause empowers any police officer to act. Therefore as you will see later on any police officer can arrest a person, if he is authorized by the Provincial Government. This, Sir, will place the arrested person in a peculiar position. I think, Sir, many hon. Members of this House were in the same position in 1942, still they are giving this power to the police officer."

The amendment was put and lost.

Clause 2—Sub-clause (4).

• SRI R. SURYANARAYANA RAO :—" I move, Sir—

' that in sub-clause (4) of clause 2, after the words " any police officer " the words " not below the rank of a Sub-Inspector of Police " shall be inserted.'

" My suggestion is that instead of saying any police officer you may put it as any police officer not below the rank of a Sub-Inspector. This occurs in most of the Statutes of this Government and that is why I suggest this, Sir "

K. UPPI SAHIB BAHADUR :—" I second it, Sir."

The amendment was put and lost.

Clause 2—Sub-clause (4).

• K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" Sir, I move—

' that the following shall be added at the end of sub-clause (4) of clause 2, namely :—

" Provided such police officer or person has been in writing authorized to act in that behalf by the Provincial Government or the officer or authority making the order."

" Sir, the sub-clause as it stands will mean that any police officer whether he has authority in writing from the Government or from the officer concerned or not can arrest any person who is in any place in contravention of the order. Any police officer from any part of the Province can go and arrest. That is why I want that the person who is to arrest a person should be definitely specified."

K. UPPI SAHIB BAHADUR :—" I second it."

The amendment was put and lost.

Clause 2—Sub-clause (5).

SRI R. SURYANARAYANA RAO :—" Sir, I move—

' that in sub-clause (5) of clause 2, after the words " including conditions as to maintenance " the words " of himself and his family, if any " shall be inserted.'

" Sir, this is a very small amendment which I think is in fact even now being given effect to. I suggest, Sir, that the maintenance may be of himself and his family if any. In 1942, Sir,

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when persons were detained and their families were given some allowance though the allowances were not satisfactory. Now, the same thing is going to be repeated under this law and so I suggest that the maintenance of himself and his family if any. That is all that I want, Sir. I trust that this is being given effect to even now by the present Government, I understand, in regard to those who have been arrested and detained."

K. UPPI SAHIB BAHADUR :—" I second it, Sir."

THE HON. SRI T. PRAKASAM :—" I oppose it, Sir."

MR. PRESIDENT :—" I was just trying to bring to the notice of the Government that the absence of the words will not at any time prevent the Government giving allowances to families."

THE HON. SRI T. PRAKASAM :—" Certainly not."

MR. PRESIDENT :—" That is what I wanted to know."

The amendment was put and lost.

Clause 2—Sub-clause (6).

* SRI R. SURYANARAYANA RAO :—" Sir, I move—
' that sub-clause (6) (a) of clause 2 be omitted.'

" This clause attempts to deal not only with the person but also with the property of the man if he is absconding when an order for his arrest has been issued and notified, and he is asked to appear before the court or somebody on a particular date. If he fails to do so, he will have to be apprehended and punished for it. The sub-clause appears to be unnecessary except that it is again copying from some other rule."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second it."

The amendment was put and lost.

Clause 2 was put and carried.

Clause 3.

DR. V. K. JOHN :—" I move, Sir—
' that clause 3 be omitted.' "

SRI B. NARAYANASWAMI NAYUDU :—" I second it."
The amendment was put and lost.

Clause 3—Sub-clause (1).

SRI B. NARAYANASWAMI NAYUDU :—" I have given notice of an amendment that in sub-clause (1) of clause 3, the words ' or where any such order is made by an officer or authority subordinate to them ' be omitted.

" I have already said that the power of internment should not be delegated at all, but should be exercised by the Government. But that was not accepted."

MR. PRESIDENT :—" So, the hon. Member does not press this amendment."

SRI B. NARAYANASWAMI NAIDU :—" No, Sir."

(The amendment was not moved.)

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Clause 3—Sub-clause (1).

SRI R. SURYANARAYANA RAO :—" I move, Sir—

' that in sub-clause (1) of clause 3, between the words " to afford him " and " opportunity " the word " earliest " be inserted.'

" This word was once there but has now been omitted for some reason. From the proceedings of the Select Committee kindly lent to me by a Member of the Assembly I find that it was done at the instance of the Government. I am only suggesting that the Government should afford to the person the earliest opportunity and that not undue delay should take place in presenting the facts to the Advisory Council. This was what Government once intended but the word has since been dropped. I think it is fair to the party whose case is to be presented to the Advisory Council that Government should be asked to afford the earliest opportunity to the person concerned to present his case."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second it."

THE HON. SRI T. PRAKASAM :—" Sir, it was at the instance of a Member of the Select Committee who is an Englishman that this was done. There was no difficulty."

SRI R. SURYANARAYANA RAO :—" I think it was omitted at the instance of Sri T. Viswanatham."

THE HON. SRI T. PRAKASAM :—" Very wrong, Sir."

MR. PRESIDENT :—" Apart from the personnel, we should like to know the reason, if any, given by the Committee."

The amendment was put and lost.

Clause 3—Sub-clause (2).

SRI R. SURYANARAYANA RAO :—" I move, Sir—

' In sub-clause (2) of clause 3, for the words " the Advisory Council " the words " a properly constituted judicial tribunal " shall be substituted.'

" No words are necessary from me to commend this amendment for the consideration of the House."

K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" I second it."

MR. PRESIDENT :—" Is it opposed? "

THE HON. SRI T. PRAKASAM :—" Yes, Sir."

The amendment was put and lost.

Clause 3—Sub-clause (3).

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" I move the following amendment :—

' The following shall be added to clause 3 (3) at the end :—

" and the majority of the members including the chairman shall be persons holding or who have held judicial appointments not below the rank of a District Judge."

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" Sir, the Government have refused to accept an amendment in the other House with regard to the appointment of a judicial tribunal. My hon. Friend Mr. Suryanarayana Rao's amendment also has not been accepted. The next amendment which can be moved is only this. This amendment envisages that at least the majority of the members of the Advisory Council should be persons who have held or who hold judicial appointments and have judicial experience. The Hon. the Premier said that in England trials by jury are held ordinarily, but there the jarymen are guided by judges, but here there is no provision for guidance being given to the Advisory Council by judges. That is why I want that the majority of the members at least should be persons with judicial experience and persons who have held judicial appointments not below the rank of a District Judge. Of course the Government is not bound to accept the findings of the Advisory Council, but let the persons concerned have at least the benefit of their records being examined by persons who have had some judicial experience."

* SRI B. NARAYANASWAMI NAYUDU :—" Sir, trial by jury has been referred to. There a man is judged by his peers. But the peers are not appointed by Government but they are selected by casting of lots. Is the Government prepared to appoint the members of the Advisory Council by having a panel of men and casting lots? No, they are not. Then there is no use of saying that a man is judged by his peers. There is no comparison at all between trial by jury and trial by persons chosen by Government. Sir, if I am judged by Mr. Muthuranga Mudaliyar, he will hang me. If I am judged by Sir Lakshmanaswami Mudaliyar, he will give a different sentence. I ask, Sir, why this camouflage? I asked the Hon. the Law Minister to tell us what is there in the English Act, what is the text of the law there. It must be in the Law Department. Let us see what is the constitution of the Advisory Committee, who appoints it and what are the qualifications of the members. Are we to follow precedents or are you to be the sole guide of yourself? Is it the position that if Mr. Muthuranga Mudaliyar wants three, let us have three? (Laughter.) I second the amendment."

MR. PRESIDENT :—" Order, order."

THE HON. SRI T. PRAKASAM :—" Nothing much need be said. I simply mentioned about the position of the jury in England. Here they will be persons appointed by Government with due care and caution, so that there may not be miscarriage of justice by choosing useless persons. Government will take particular care to see that proper men are appointed."

The amendment was put and lost.

Clause 3—Sub-clause (3).

* SRI B. NARAYANASWAMI NAYUDU :—" I move—

' In sub-clause (3) of clause 3 the words " *whenever necessary* " shall be omitted.'

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" Even the constitution of the so-called Advisory Council is within the discretion of the Government. ' The Government shall constitute an Advisory Council *whenever necessary*.' God only knows how they will constitute and when. Is there any obligation? The section as worded seems to indicate that there is no obligation. It is optional. The words used are ' *whenever necessary*.' "

K. UPPI SAHIB BAHADUR :—I second the amendment.

THE HON. SRI T. PRAKASAM :—" It is obligatory. The words ' *whenever necessary* ' were introduced after a long discussion. It was considered that the Council appointed on one occasion to go into certain cases need not go on continuing, if the particular cases referred to it were over. Afterwards, if it is necessary to constitute an Advisory Council, it will be constituted."

The amendment was put and lost.

Clause 3—Sub-clause (4).

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" I move—

' After the words " as it may deem necessary " the following words shall be inserted :—

" and if necessary after giving further opportunity to the person concerned to explain or make representation in respect of any materials placed before it " . '

" Section 3 (1) says that the Provincial Government shall communicate to the person affected by the order, so far as such communication can be made without disclosing the facts which they consider it would be against the public interest to disclose, the grounds on which the order has been made against him and such other particulars as are in their opinion sufficient to enable him to make, if he wishes, a representation against that order. The Government are not under the Bill bound to communicate to the person affected all the particulars available with them. The Hon. Premier said in reply to the general discussion that so far as the Advisory Council was concerned, all the particulars would be placed before it. The Advisory Council may think it necessary that the person affected should be given an opportunity to make any representation in respect of some of those facts which were withheld from him originally. Even according to the provisions of the Bill as framed by the Government, I think it necessary that this amendment should be accepted."

K. UPPI SAHIB BAHADUR :—I second the amendment.

* THE HON. SRI T. PRAKASAM :—" Whatever matter is required to be placed before the person affected to enable him to make a representation will be placed before him. Sometimes there may be matters the disclosure of which to the affected person might lead to certain troubles. Therefore they would be withheld from him. The Advisory Council will certainly go into all the matters."

The amendment was put and lost.

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Clause 4—Sub-clause (1).

* SRI B. NARAYANASWAMI NAYUDU :—“ I move—

‘ For the word “ six ” the word “ three ” shall be substituted.’

“ Sub-clause (1) says that no order shall be in force for more than six months. This six months is a recurring decimal. With regard to human freedom, it is a suicidal policy to go on detaining a person for six months, again six months and once again six months and so on. That is what the section says.”

SRI M. D. T. KUMARASWAMI MUDALIYAR :—“ I second the amendment.”

The amendment was put and lost.

Clause 4 was put and carried.

Clause 5.

* SRI R. SURYANARAYANA RAO :—“ Sir, I move—

‘ that clause 5 shall be omitted and the other clauses shall be re-numbered.’

“ I have nothing more to urge than what I have already said in the course of the general discussion on the Bill that the imposition of collective fines is unnecessary. If in an area there is danger to peace and order, there is provision in the ordinary law by which punitive police is stationed and the cost of their maintenance is collected from the people of the area. In areas where there is no danger to peace, there is no need to impose collective fines. I think the present law is quite sufficient to meet the situation.”

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ I second it. In view of the comprehensive nature of the provisions of the Bill, there will be no necessity at all for the imposition of collective fines. The Government have taken ample powers to prevent persons from acting in a manner injurious to the interests of the public. Imposition of collective fines is tantamount to making innocent people vicariously suffer for offences committed by others. On principle also, I oppose therefore the imposition of collective fines.”

* SRI R. SURYANARAYANA RAO :—“ May I also add that this Congress Government are refunding the fines collected during 1942? ”

MR. PRESIDENT :—“ I was about to suggest it to the hon. Member for the withdrawal of the amendment.”

The amendment was put and lost.

Clause 5 was put and carried.

Clause 6.

* SRI R. SURYANARAYANA RAO :—“ Sir, I move the following amendment—

‘ Clause 6 shall be omitted and the other clauses shall be re-numbered.’

I do not want to keep the House long for the reason, as I said, that section 144 of the Criminal Procedure Code has been used

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in Mannargudi by notification and the period has been extended already by the Government, proclaiming that no meetings, processions, etc., should be held. The Government have got ample powers under the Criminal Procedure Code. This clause is only a repetition of the Defence of India Rules."

* SRI M. D. T. KUMARASWAMI MUDALIYAR :—Sir, I second the amendment."

The amendment was put and lost.

Clause 6 was put and carried.

Clause 7.

Clause 7 was put and carried.

Clause 8.

* SRI R. SURYANARAYANA RAO :—" Sir, I move the following amendment :—

' Clause 8 shall be omitted and the other clauses shall be renumbered.'

The reasonableness of Members of this House can be seen from the fact that we feel that section 7 should form part of the Bill. We have not given notice of any amendment because there is no such provision in the existing law. I bring this fact to the notice of the House to show that we are not unreasonable. Where the Government do not possess powers to deal with a situation and where they want such powers we have not given notice of any amendment to delete the existing clause in the Bill.

" Apart from that, I come to section 8 now. I have suggested the omission of this section, as it affects the right and liberty of workers to organize themselves for the purpose of defending the rights which Labour enjoy. It also interferes with the right of the worker to choose the employment he likes. Even under the Emigration Act the labourer who goes to Ceylon has the liberty to choose work in any estate he likes. Under this law it is impossible to do so. The Government will settle the kind of work which he should do. The Government have been very careful not to entrench on the subjects of the Central Government. They have put in Lists II and III. They cannot include List I without the consent of the Government of India. I do not know whether my hon. Friend, Mr. Sarma, will vote with the Government. It interferes with the right of labour workers. It is a right, a valuable right

MR. PRESIDENT :—" Clause 8 refers to ' any person engaged in such employment.' It does not transfer the worker from one employment to another."

SRI R. SURYANARAYANA RAO :—" The worker is not allowed to choose any employment he likes. That liberty is taken away. With regard to essential services during the war, there was such a provision."

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MR. PRESIDENT :—" I do not understand the hon. Member. The clause says that any person engaged in any employment will be given that employment."

SRI R. SURYANARAYANA RAO :—" You tie the workers down to the employer. It is not open to the employee to give 14 days notice under the Defence of India Rules whose life has been extended till October. After giving 14 days notice, they can strike work. . . ."

MR. PRESIDENT :—" I now follow what the hon. Member says."

* SRI R. SURYANARAYANA RAO :—" It interferes with the legitimate right of the workers. There was such a provision in war-time. This is not necessary in peace-time. I do not know why this Government want this power. Section 81-A of the Central Government Rules gives them the necessary power. Of course it will not last beyond October. I think in an emergency such restrictions may be necessary, as essential services may be affected. But in ordinary times it is not right that the right of the workers themselves to express their demands and obtain them should be taken away. In such cases 14 days' notice is given."

SRI B. NARAYANASWAMI NAYUDU :—" I second the amendment. It does not touch control powers. The Bill does not refer to any specific trade. The Government can ask the agriculturists to continue to grow groundnut alone, whether they like it or not. The economic organization seems to be based on totalitarian principles. I can understand the Government using the powers in the Bill in the case of certain specified trade. There is nothing of the kind. They want to fix up the labourer to one work only."

MR. PRESIDENT :—" The hon. Member will not please look at his hon. Friend, Mr. Muthuranga Mudaliyar."

* SRI P. R. K. SARMA :—" Sir, the amendment moved and now under discussion is so vital and important for labour, for the protection of labour's rights that I cannot remain silent, nor vote with the Government though I am a member of the Party and I belong to the Party. It may be that this amendment moved by the hon. Member, Mr. Suryanarayana Rao, for the omission of this clause, may appear to be trivial and unimportant to some hon. Members of the House. However patriotic one might be, it is not possible for some to appreciate the real difficulties of the working class. We know, Sir, during the war under the Defence of India Rules how workers suffered under many restraints. They had no right to move from one employer to another employer. I know, Sir, that there was at least the National Service Tribunal to interfere and say that under some circumstances the worker can go from one post to another, from one employer to another employer—if he was able to obtain better wages. Even such a saving clause is not found in this legislation. The only rights, the

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only protection and the only safeguard which a worker has in his hands for his advancement is his right to refuse to work if the conditions are not satisfactory. It is a fundamental right"

MR. PRESIDENT :—" I would suggest to the hon. Member not to be so violent otherwise his hon. Friend, Mr. Suryanarayana Rao might come under this Bill for inciting him to violence."

SRI P. R. K. SARMA :—" Mr. Muthuranga Mudaliyar rose up and measured and compared sacrifices of Members to the country. There may be persons whom my hon. Friend may not know, whose sacrifices might not be known to him. It is not jail-going alone is a sacrifice. There may be men who have undergone greater sufferings and made greater sacrifices in furtherance of some noble causes without having to go to jail."

MR. PRESIDENT :—" The hon. Member will confine his remarks to the amendment before the House."

8 p.m. SRI P. R. K. SARMA :—" Sir, the only right the worker has got, to secure improved conditions of service, in the absence of any protective legislation and in the absence of legislation for ensuring minimum wages, hours of work, etc., is his right to strike. This clause denies the worker his fundamental right for which he is entitled and for which he has fought all along. Sir, no democratic body, or popular legislature should pass a clause of this character and I, therefore, support the amendment, that clause 8 shall be deleted."

MR. PRESIDENT :—" The amendment is—

'that clause 8 shall be omitted and the other clauses be renumbered.'"

The amendment was put and lost.

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" Mr. President, I move—

'that Explanation (1) under clause 8 shall be omitted.'

" It says :

'Abandonment of employment or absence from duty by any person merely for fear of molestation, intimidation or assault by any person or class of persons shall not constitute a reasonable excuse within the meaning of clause (b).'"

" Well, Sir, we know that during strikes and labour troubles it is quite possible that a person who is on his way for work might be molested, intimidated or assaulted. According to this explanation, even if he is molested, intimidated or assaulted, even if there is any risk to his life, he must go to his work. If not, he commits an offence under this Act, for which he is punishable. It is too much of a risk to be expected of any ordinary man and I consider that the provision is very stringent; it is, therefore, but reasonable that this explanation should be omitted."

K. UPPI SAHIB BAHADUR :—" I second the amendment, Sir."

The amendment was put and lost; clause 8 was then put and carried.

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K. UPPI SAHIB BAHADUR :—“ Sir, it is now eleven hours we have been sitting here and it is very inconvenient for us to sit any more.”

MR. PRESIDENT :—“ I am just coming to that. There are a few more amendments and I do not know if hon. Members are very keen in making big speeches on them. If the House is inclined, I suggest that we may finish the Bill once for all to-day, so that we may not sit to-morrow also. Of course, the House has every right to have its say in the matter, but I wish that the Hon. the Premier and the hon. the Leader of the Opposition may consult each other and come to some decision just now.”

THE HON. SRI T. PRAKASAM :—“ I would appeal, Sir, to the Leader of the Opposition and the other hon. Members to sit for half-an-hour more and finish this Bill.”

* K. UPPI SAHIB BAHADUR :—“ I do not think, Sir, we shall be able to finish this Bill within another half-an-hour, because this is a measure in which some of us feel very keenly and in the third reading stage we have to have our say again. Besides, there are other questions also.”

SRI K. MADHAVA MENON :—“ If we want really to help the Government, we must sit for half-an-hour more and finish it, Sir.”

(A number of hon. Members stood up at the same time and urged for the adjournment of the House to the next day.)

MR. PRESIDENT :—“ I should like to know the opinion of Sir Lakshmanaswami Mudaliyar.”

DR. SIR A. LAKSHMANASWAMI MUDALIYAR :—“ Sir, we had better take it up to-morrow, having regard to the fact that the tempers are a bit frayed. Some of us also would like to speak on the third reading stage.”

MR. PRESIDENT :—“ Shall we sit at 9 o'clock to-morrow ? ”

(Several Members again stood up and made various suggestions, but it was finally agreed to have the meeting at 9-30 a.m. on 8th March 1947.)

MR. PRESIDENT :—“ The House stands adjourned to 9-30 a.m. to-morrow.”